

1 Jan E. Kruska
2 4102 W. Woodridge Dr.
3 Glendale, AZ 85308
4 602-579-8580

5 Plaintiff – *Pro Se*

6
7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF ARIZONA**

9 JAN E. KRUSKA,

10 Plaintiff,

11 vs.

12 PERVERTED JUSTICE FOUNDATION

13 ET.AL.,

14 Defendants.

Case No. CIV08-00054-PHX-SMM

JUDICIAL NOTICE

NOTICE OF ERRATA

ASSIGNED TO THE HONORABLE JUDGE
STEPHEN M. MCNAMEE

15 COMES NOW Plaintiff, Jan E.Kruska, by and through herself, hereby RESPECTFULLY
16 asks the Court and Your Honor to take **JUDICIAL NOTICE OF PLAIN AND FACTUAL**
17 **ERRORS in Defendant Brocious' REPLY (Doc. 293).**

18 Counsel for Defendant filed his Response for his client, Defendant Brocious on March
19 30, 2010 (See Doc. 293). Plaintiff's prays that Your Honor will take JUDICIAL NOTICE of the
20 following **PLAIN and FACTUAL ERRORS** contained in his response which are outlined
21 as follows, and as pertains to the aforementioned REPLY:

22 In Counsel for Defendant Brocious' REPLY (Doc. 293 on page 2 @ 2-3), Counsel
23 erroneously states that "Plaintiff has still failed to comply with the applicable rules, thereby
24 requiring summary judgment." Plaintiff HAS in fact, followed the applicable rules as set forth.
25 Plaintiff filed her response with a separate "SOF" corresponding to Defendant Brocious' "SOF"
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1 as required. Line by line, Plaintiff addressed each of Defendant's SOF previously submitted to
 2 this Court in support of his premature Motion for Summary Judgment. Counsel for Defendant
 3 Brocious also erroneously claims that there is no genuine issue of material fact and that his
 4 Motion for Summary Judgment is thereby warranted. Plaintiff respectfully requests that Your
 5 Honor take **JUDICIAL NOTICE OF COUNSEL'S ERRORS.**

7 Contrary to the Court Records, Counsel erroneously states in his REPLY (Doc. 293) on
 8 page two (lines 10-13) that "Plaintiff did not controvert Defendants facts, AND that Plaintiff's
 9 claims are in any event barred as a matter of law." The record will show that Plaintiff DID in fact
 10 controvert Defendant's sworn "SOF", as well as demonstrate more than enough facts to defeat
 11 summary judgment. Counsel's startling statement that Plaintiff's claim(s) are "barred" as a
 12 matter of law" is unsubstantiated and dumbfounding, to say the very least. Plaintiff respectfully
 13 asks that Your Honor take **JUDICIAL NOTICE OF COUNSEL'S ERRORS.**

16 Further, Counsel for Defendant FALSELY states to the Court that "Defendant's Facts are
 17 Uncontroverted and Deemed Admitted" Counsel states that "In opposing the Motion, Plaintiff
 18 was required to file a separate statement of facts (SOF) addressing each of Defendant's
 19 statements of facts." But she did not. (See Doc. 293 p.2 @ 13-27). Counsel's assertion is
 20 WHOLLY untrue and is NOT supported by the Court docket and record. (See Docs. 291 and 290
 21 respectively). Thus, Plaintiff respectfully asks Your Honor to take **JUDICIAL NOTICE OF**
 22 **COUNSEL'S ERRORS.**

25 Plaintiff respectfully requests that Your Honor take Judicial Notice of the fact that in
 26 Counsel for Defendants REPLY (Doc 293 p.2 @13), **Counsel is FALSELY claiming to this**
 27 **Court that the facts of this case are uncontroverted** AND that Plaintiff's exhibits, True and
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1 Correct Copies, are not admissible evidence. It is not Counsel's place to "judge" what evidence
2 is and is not admissible. Plaintiff contends that such is a duty which falls to Your Honor and
3 Plaintiff respectfully requests that Your Honor take **JUDICIAL NOTICE OF COUNSEL'S**
4 **ERRORS.**

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7 Counsel for Defendant is absolutely **INCORRECT** in his statement to this Court that
8 Plaintiff has been {sic} "...afforded a full opportunity to come forward with facts showing that
9 defendant made actionable statements." (See Doc. 293 p. @ 2-3). As the records repeatedly
10 reflect (Beginning with the Court's ORDER in Doc. 5), **Plaintiff has NOT been allowed to**
11 **conduct ANY DISCOVERY whatsoever, since the filing of this case.** Plaintiff respectfully
12 requests that Your Honor take **JUDICIAL NOTICE OF COUNSEL'S ERROR.**

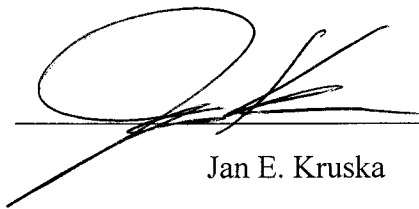
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15 Plaintiff respectfully asks that the Court to take **JUDICIAL NOTICE** of the fact
16 Defendant's first Reply (which was subsequently STRICKEN because it was premature and was
17 **not in accordance with what Your Honor Ordered**) was **NOT filed by any counsel of record**
18 **for Defendant Brocious.** The stricken response filed on behalf of Defendant Brocious on
19 February 25, 2011 (Doc. 288) was filed by an attorney named Randy A. McCaskill, who is not
20 listed anywhere on the docket as attorney of record for the Defendant. Only Steven G. Ford is
21 currently listed as Counsel for the Defendant. There is no evidence in the court record that Randy
22 McCaskill is an Attorney to be Noticed, Lead Counsel, or otherwise for Defendant Brocious.
23 Filing with out proper notice to and acceptance by the Court is improper. Plaintiff again
24 respectfully asks Your Honor to take **JUDICIAL NOTICE OF THIS ERROR.**

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28 Plaintiff also respectfully requests that Your Honor take **JUDICIAL NOTICE** of the fact

1 that even Counsel for Defendant in his REPLY (Doc. 293 p. 4@ 2-3) himself, fully recognizes
2 and confirms the prejudice which Plaintiff has suffered by the Court's continued bar on
3 discovery in this case. Your Honor requested of Plaintiff, in his ORDER (Doc. 289) to provide,
4 **specifically:** "depositions, interrogatory, admission and other documents" - items which, can
5 ONLY be ascertained via DISCOVERY under the F.R.C.P. Rule 26 AND, BY ORDER(S)
6 appearing throughout the case docket, AFTER this Court GRANTS permission to conduct it!
7 Plaintiff respectfully asks Your Honor to take **JUDICIAL NOTICE** of the fact that
8 DISCOVERY has been consistently BARRED in this case and yet, Plaintiff has actually been
9 ORDERED and expected to provide items which can ONLY be ascertained via the process of
10 discovery itself! Plaintiff respectfully asks this Court and Your Honor to consider the severity,
11 unparalleled disadvantages and unfair prejudice that this Court's BAR on Discovery has had
12 throughout Plaintiff case. Plaintiff respectfully PRAYS that Your Honor does not take these
13 statements personally and that he NOT STRIKE this JUDICIAL NOTICE and NOTICE OF
14 ERRATA.
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19 Finally, and with all due respect, it appears that Counsel for Defendant's factual errors, as
20 outlined and stated herein and found throughout his DOC. 293 filing, are not the result of
21 mistake, but rather, have the appearance of being intentional. Counsel appears to be attempting
22 to confuse and mislead this Court by abusing Plaintiff's status as a Pro Se litigant to distract
23 from the genuine issues and to further delay the proceedings. Accordingly, and without further
24 Motion, Plaintiff PRAYS that Your Honor take **JUDICIAL NOTICE** of all of the ERRORS
25 outlined herein and, at his discretion, if he deems appropriate, to sanction Counsel for Defendant
26 Brocious accordingly.
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2 VERY RESPECTFULLY submitted this 31st Day of March, 2011
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17 A handwritten signature in black ink, consisting of a large, stylized 'J' and 'K' followed by a horizontal line.

18 Jan E. Kruska

19 Plaintiff – *Pro Se*

20 4102 W. Woodridge Dr.

21 Glendale, AZ 85308
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE FOREGOING, WAS
MAILED VIA USPS FIRST CLASS MAIL, THIS 14th DAY OF MARCH, 2011 TO THE
FOLLOWING:

ALVAREZ & GILBERT PLLC.
ATTENTION: STEVEN G. FORD
14500 NORTH NORTHSIGHT BLVD. STE 216
SCOTTSDALE, AZ 85260

ATTORNEY FOR DEFENDANT CHRISTOPHER BROCIOS



J/KRUSKA

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